

U. S. District Court
Western District of Arkansas (Harrison)
CIVIL DOCKET FOR CASE #: 3:10-cv-03086-RTD
Internal Use Only

Stebbins v. Wal-Mart Stores, Inc.
Assigned to: Honorable Robert T. Dawson
Case in other court: 8th Circuit Court of Appeals, 11-01966
8th Circuit Court of Appeals, 11-02583
Cause: 28:794 Rehabilitation Act

Date Filed: 09/14/2010
Date Terminated: 09/07/2011
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff**David Stebbins**

represented by **David Stebbins**
1407 N. Spring Rd.
Apt #5
Harrison, AR 72601
870-204-6024
PRO SE

V.

Defendant

Wal-Mart Stores Arkansas LLC
also known as
Wal-Mart Stores, Inc.

represented by **Jeffrey L. Spillyards**
Mitchell, Williams, Selig, Gates
&Woodyard, PLLC
425 West Capitol Avenue
Suite 1800
Little Rock, AR 72201
(501) 688-8800
Fax: (501) 688-8807
Email: jspillyards@mwlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
09/14/2010	<u>1</u>		COMPLAINT against Wal-Mart Stores, Inc., filed by David Stebbins.(lw) (Entered: 09/14/2010)
09/14/2010	<u>2</u>		MOTION for Leave to Proceed in forma pauperis and MOTION for Service by David Stebbins. (lw) (Entered: 09/14/2010)
09/14/2010			MOTIONS REFERRED: <u>2</u> MOTION for Leave to Proceed in forma pauperis MOTION for Service. Motions referred to Honorable Erin L. Setser.(lw) (Entered: 09/14/2010)
09/14/2010	<u>3</u>		

			ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis. Further, plaintiff is advised that he has an obligation to keep the Court informed of any changes in his address. If he fails to do so and the Court receives returned mail, the case will be subject to dismissal. Signed by Honorable Erin L. Setser on September 14, 2010. (lw) (Entered: 09/14/2010)
09/14/2010			MOTIONS REFERRED: <u>2</u> MOTION for Service. Motions referred to Honorable James R. Marschewski.(lw) (Entered: 09/14/2010)
10/01/2010	<u>4</u>		MOTION to Amend <u>1</u> Complaint by David Stebbins. (jas) (Entered: 10/01/2010)
10/07/2010	<u>5</u>		ORDER granting <u>4</u> Motion to Amend. Plaintiff is directed to file his amended complaint within (10) days. Signed by Honorable Robert T. Dawson on October 7, 2010. (lw) (Entered: 10/07/2010)
10/15/2010	<u>6</u>		AMENDED COMPLAINT as to <u>1</u> Complaint against Wal-Mart Stores, Inc., filed by David Stebbins. (lw) Modified on 10/15/2010 to edit document (lw). (Entered: 10/15/2010)
10/27/2010	<u>7</u>		ORDER granting <u>2</u> Motion for Service and DIRECTING SERVICE on Wal-Mart Stores, Inc. Defendant is to answer within 21 days from the date of service. Signed by Honorable James R. Marschewski on October 27, 2010. (cc: U.S. Marshals Service-Certified)(lw) (Entered: 10/27/2010)
10/27/2010			(1) USM-285 Form Delivered to USMS re <u>7</u> Order on Motion for Service. (lw) (Entered: 10/27/2010)
11/04/2010	<u>8</u>		MOTION to Appoint Counsel by David Stebbins. (sh) (Entered: 11/04/2010)
11/04/2010	<u>9</u>		***DISREGARD SEE DOCUMENT <u>8</u> *** MOTION to Appoint Counsel by David Stebbins. (sh) Modified on 11/5/2010 to add text (lw). (Entered: 11/04/2010)
11/04/2010			TEXT ONLY ORDER REFERRING MOTIONS: <u>9</u> MOTION to Appoint Counsel filed by David Stebbins, <u>8</u> MOTION to Appoint Counsel filed by David Stebbins referred to United States Magistrate Judge Erin L. Setser for disposition or recommendation, whichever is appropriate. Signed by Honorable Robert T. Dawson on November 4, 2010. (ke) (Entered: 11/04/2010)
11/04/2010			TEXT ONLY MOTION for Service by David Stebbins. See Document <u>8</u> . (lw) (Entered: 11/05/2010)
11/04/2010			MOTIONS REFERRED: MOTION for Service. See Text only Order dated 11/4/10. Motions referred to Honorable Erin L. Setser.(lw) (Entered: 11/05/2010)

11/12/2010	<u>10</u>		SUMMONS Returned Executed by David Stebbins. Wal-Mart Stores, Inc. served on 10/29/2010, answer due 11/19/2010. (Attachments: # <u>1</u> Green Card)(lw) (Entered: 11/12/2010)
11/15/2010	<u>11</u>		MOTION for Declaratory Judgment by David Stebbins. (lw) (Entered: 11/15/2010)
11/16/2010	<u>12</u>		MOTION to Withdraw <u>11</u> MOTION for Declaratory Judgment by David Stebbins. (lw) (Entered: 11/17/2010)
11/16/2010	<u>13</u>		ORDER REFERRING MOTION: <u>11</u> MOTION for Declaratory Judgment filed by David Stebbins. Signed by Honorable Robert T. Dawson on November 16, 2010. Motions referred to Erin L. Setser.(lw) (Entered: 11/17/2010)
11/17/2010			MOTIONS REFERRED: <u>12</u> MOTION to Withdraw <u>11</u> MOTION for Declaratory Judgment. Motions referred to Honorable Erin L. Setser per chambers.(lw) (Entered: 11/17/2010)
11/17/2010	<u>14</u>		<i>Answer to Plaintiff's Original Complaint and ANSWER to <u>6</u> Amended Complaint</i> by Wal-Mart Stores, Inc..(Spillyards, Jeffrey) (Entered: 11/17/2010)
11/17/2010			CLERK'S NOTICE re Multiple Attorneys Listed on Pleading directed to Defendant Wal-Mart Stores, Inc. Answer to Amended Complaint <u>14</u> lists multiple attorneys appearing for the filer. The following attorneys, who did not sign the pleading, must enter a separate Notice of Appearance in order to receive electronic notification of future activity in the case: Marshall Ney and Kathlyn Graves . TEXT ONLY ENTRY, NO DOCUMENT ATTACHED. (lw) (Entered: 11/18/2010)
01/05/2011	<u>15</u>		ORDER finding the matters should be consolidated for all future purposes, including trial and all future pleadings shall be filed under one case number, Case No. 10-3086, and Case No. 10-3123 is dismissed. Signed by Honorable Robert T. Dawson on January 5, 2011. Associated Cases: 3:10-cv-03123-RTD(rw) (Entered: 01/05/2011)
01/07/2011	<u>16</u>		INITIAL SCHEDULING ORDER: Rule 26(f) Conference to be held by 2/21/2011. Rule 26(f) Meeting Report due by 3/18/2011. Bench Trial set for the week of 12/19/2011 in Harrison -- 2nd flr (Rm 231) before Honorable Robert T. Dawson. Signed by Honorable Robert T. Dawson on January 7, 2011. (ke) (Entered: 01/07/2011)
02/15/2011	<u>17</u>		Suggestion in Support of Motion to Confirm Arbitration Award by David Stebbins. (src) (Entered: 02/15/2011)
02/15/2011	<u>18</u>		Letter from Clerk to Mr. Stebbins regarding filing. (src) (Entered: 02/15/2011)

02/18/2011	<u>19</u>		MOTION to Correct Judicial Error by David Stebbins. (Attachments: # <u>1</u> Amended Complaint/Motion to Confirm Arbitration Award, # <u>2</u> Letter from Spillyards)(src) (Entered: 02/18/2011)
02/22/2011			TEXT ONLY ORDER REFERRING MOTION: <u>19</u> MOTION to Amend/Correct filed by David Stebbins. Signed by Honorable Robert T. Dawson on February 22, 2011. Motions referred to Erin L. Setser.(ms) (Entered: 02/22/2011)
02/22/2011	<u>20</u>		RENEWED MOTION to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct by David Stebbins. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit)(jas) (Entered: 02/22/2011)
02/22/2011			TEXT ONLY ORDER REFERRING MOTION: <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct filed by David Stebbins. Signed by Honorable Robert T. Dawson on February 22, 2011. Motions referred to Erin L. Setser.(ms) (Entered: 02/22/2011)
02/23/2011	<u>21</u>		MOTION for ECF and pacer account by David Stebbins. (rw) (Entered: 02/23/2011)
02/28/2011	<u>22</u>		MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> by Wal-Mart Stores, Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Spillyards, Jeffrey) (Entered: 02/28/2011)
02/28/2011	<u>23</u>		MEMORANDUM BRIEF in Support of <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 02/28/2011)
02/28/2011	<u>24</u>		STATEMENT OF FACTS in support of <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 02/28/2011)
02/28/2011			TEXT ONLY ORDER REFERRING MOTION: <u>21</u> MOTION for ECF and pacer account filed by David Stebbins, <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by Wal-Mart Stores, Inc.. Signed by Honorable Robert T. Dawson on February 28, 2011. Motions referred to Erin L. Setser.(ms) (Entered: 02/28/2011)
03/01/2011			CLERK'S NOTICE re Multiple Attorneys Listed on Pleading directed to Defendant Wal-Mart Stores, Inc.. Motion for Partial Summary Judgment <u>22</u> lists multiple attorneys appearing for the filer. The following attorney(s), who did not sign the pleading, must enter a separate Notice

			of Appearance in order to receive electronic notification of future activity in the case: Marshall Ney, Katheryn Graves . TEXT ONLY ENTRY, NO DOCUMENT ATTACHED. (sh) (Entered: 03/01/2011)
03/01/2011	<u>25</u>		RESPONSE to Motion re <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct <i>and Incorporated Brief in Support</i> filed by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 03/01/2011)
03/03/2011	<u>26</u>		RESPONSE in Opposition re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by David Stebbins. (src) (Entered: 03/03/2011)
03/04/2011	<u>27</u>		SUPPLEMENT by Plaintiff David Stebbins to <u>26</u> Response in Opposition to Motion. (src) (Entered: 03/04/2011)
03/08/2011	<u>28</u>		REPLY to Response to Motion re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 03/08/2011)
03/10/2011	<u>29</u>		REPLY to Defendants' Suggestion, re <u>23</u> Memorandum Brief in Support, by David Stebbins. (lw) (Entered: 03/10/2011)
03/10/2011	<u>30</u>		REPLY to Defendants' Suggestion in Support by David Stebbins re <u>23</u> Memorandum Brief in Support. (lw) (Entered: 03/10/2011)
03/15/2011	<u>31</u>		SUPPLEMENT by Defendant Wal-Mart Stores, Inc. to <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> . (Attachments: # <u>1</u> Exhibit A-Letter from David Stebbins)(Spillyards, Jeffrey) (Entered: 03/15/2011)
03/18/2011	<u>32</u>		REPLY by David Stebbins re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> . (lw) (Entered: 03/18/2011)
03/18/2011	<u>33</u>		REPORT of Rule 26(f) Planning Meeting by Wal-Mart Stores, Inc.. (Attachments: # <u>1</u> Exhibit A-Letter to Mr. Stebbins, # <u>2</u> Exhibit B-Letter from Mr. Stebbins)(Spillyards, Jeffrey) (Entered: 03/18/2011)
03/21/2011	<u>34</u>		Second REPLY to Response to Motion re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by David Stebbins. (src) (Entered: 03/21/2011)
04/11/2011	<u>35</u>		Suggestion in Support of Motion to Confirm Arbitration Award by David Stebbins (src) (Entered: 04/11/2011)
04/11/2011	<u>36</u>		Withdrawal of <u>35</u> Suggestion in Support of Motion to Confirm Arbitration Award by David Stebbins (src) (Entered: 04/11/2011)

04/12/2011	<u>37</u>		ORDER; directing clerk to note proper name of defendant on the docket sheet. Signed by Honorable Erin L. Setser on April 12, 2011. (lw) (Entered: 04/12/2011)
04/12/2011	<u>38</u>		ORDER denying <u>8</u> Motion to Appoint Counsel ; withdrawing <u>11</u> Motion for Declaratory Judgment; granting <u>12</u> Motion to Withdraw Motion; denying as moot <u>19</u> Motion to amend/correct; denying <u>21</u> Motion for ECF Account. Signed by Honorable Erin L. Setser on April 12, 2011. (src) (Entered: 04/12/2011)
04/14/2011	<u>39</u>		REPORT AND RECOMMENDATIONS re <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct filed by David Stebbins, <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by Wal-Mart Stores, Inc. Objections to RRdue by 5/2/2011. Signed by Honorable Erin L. Setser on April 14, 2011. (lw) Modified on 4/15/2011 to edit Judge(lw). (Entered: 04/14/2011)
04/18/2011	<u>40</u>		OBJECTION to <u>39</u> Report and Recommendations by David Stebbins. (Attachments: # <u>1</u> Exhibit A Walmart.com page, # <u>2</u> Exhibit B Message board)(src) (Entered: 04/18/2011)
04/20/2011	<u>41</u>		ORDER adopting <u>39</u> Report and Recommendations in its entirety. Further denying <u>20</u> Renewed Motion to Confirm Arbitration Award; granting <u>22</u> Motion for Partial Summary Judgment Related to Arbitration Claim. Signed by Honorable Robert T. Dawson on April 20, 2011. (lw) (Entered: 04/20/2011)
04/20/2011	<u>42</u>		SUPPLEMENT by Plaintiff David Stebbins to <u>40</u> Objection to Report and Recommendations. (src) (Entered: 04/20/2011)
04/21/2011	<u>43</u>		Suggestion in Support of <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct by David Stebbins. (src) (Entered: 04/21/2011)
04/26/2011	<u>44</u>		MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment by David Stebbins. (src) (Entered: 04/26/2011)
04/26/2011	<u>45</u>		MEMORANDUM BRIEF in Support of <u>44</u> MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations by David Stebbins. (Attachments: # <u>1</u> Exhibit A)(src) (Entered: 04/26/2011)
04/29/2011	<u>46</u>		MOTION to Confirm Arbitration Award by David Stebbins. (src) (Entered: 04/29/2011)
04/29/2011	<u>47</u>		MEMORANDUM BRIEF in Support of <u>46</u> MOTION to Confirm Arbitration Award by David Stebbins. (src)

			(Entered: 04/29/2011)
04/29/2011	<u>48</u>		NOTICE OF APPEAL as to <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment by David Stebbins. (cc via CM/ECF: Jeffrey L. Spillyards, via U.S. Postal Service: David Stebbins) (Attachments: # <u>1</u> Motion and Affidavit for Permission to Appeal In Forma Pauperis, previous IFP granted 9/14/10)(lw) (Entered: 04/29/2011)
04/29/2011	<u>49</u>		APPEAL NOTICE to Counsel and Pro Se Parties re <u>48</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 04/29/2011)
04/29/2011	<u>50</u>		NOA SUPPLEMENT FORM re <u>48</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 04/29/2011)
05/02/2011	<u>51</u>		Suggestion in Support of <u>46</u> MOTION to Confirm Arbitration Award, and <u>44</u> MOTION for Reconsideration by David Stebbins. (lw) (Entered: 05/02/2011)
05/03/2011	<u>52</u>		USCA Case Number 11–1966, 8th Circuit Court of Appeals for <u>48</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 05/03/2011)
05/04/2011	<u>53</u>		ORDER of USCA requesting any portions of the original record which are not available in an electronic format through PACER be submitted within 10 days. There are no documents to send. (jn) (Entered: 05/04/2011)
05/10/2011	<u>54</u>		RESPONSE in Opposition re <u>46</u> MOTION to Confirm Arbitration Award <i>Response in Opposition to Plaintiff's Petition to Confirm Arbitration Award and Incorporation of Wal–Mart's Previously Filed Motion for Partial Summary Judgment</i> filed by Wal–Mart Stores Arkansas LLC. (Attachments: # <u>1</u> Exhibit 1)(Spillyards, Jeffrey) (Entered: 05/10/2011)
05/13/2011	<u>55</u>		MOTION for Summary Judgment by Wal–Mart Stores Arkansas LLC. (Attachments: # <u>1</u> Exhibit 1–Part 1, # <u>2</u> Exhibit 1–Part 2)(Spillyards, Jeffrey) (Entered: 05/13/2011)
05/13/2011	<u>56</u>		MEMORANDUM BRIEF in Support of <u>55</u> MOTION for Summary Judgment by Wal–Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 05/13/2011)
05/13/2011	<u>57</u>		STATEMENT OF FACTS in support of <u>55</u> MOTION for Summary Judgment <i>Statement of Undisputed Facts in Support of Wal–Mart's Motion for Summary Judgment</i> by Wal–Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 05/13/2011)
05/16/2011	<u>58</u>		MOTION to Strike <u>54</u> Response in Opposition to Motion, by David Stebbins. (src) (Entered: 05/16/2011)

05/16/2011	<u>59</u>		MEMORANDUM BRIEF in Support of <u>58</u> MOTION to Strike <u>54</u> Response in Opposition to Motion, by David Stebbins. (src) (Entered: 05/16/2011)
05/16/2011	<u>60</u>		SUPPLEMENT by Plaintiff David Stebbins to <u>44</u> MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment. (src) (Entered: 05/16/2011)
05/16/2011	<u>61</u>		Reply Suggestion to <u>46</u> MOTION to Confirm Arbitration Award. (src) (Entered: 05/16/2011)
05/18/2011	<u>62</u>		RESPONSE to Motion re <u>55</u> MOTION for Summary Judgment filed by David Stebbins. (tg) (Entered: 05/18/2011)
05/23/2011	<u>63</u>		REPLY to Response to Motion re <u>55</u> MOTION for Summary Judgment <i>Reply in Support of Wal-Mart's Motion for Summary Judgment</i> filed by Wal-Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 05/23/2011)
06/07/2011	<u>64</u>		SUPPLEMENT by Plaintiff David Stebbins to <u>46</u> MOTION to Confirm Arbitration Award, <u>44</u> MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment. (lw) (Entered: 06/07/2011)
07/19/2011	<u>65</u>		ORDER denying <u>44</u> Motion for Reconsideration ; denying <u>46</u> Petition to Confirm Arbitration Award; and denying <u>58</u> Motion to Strike. Signed by Honorable Robert T. Dawson on July 19, 2011. (lw) (Entered: 07/19/2011)
07/20/2011	<u>66</u>		MANDATE of USCA dismissing for lack of jurisdiction <u>48</u> Notice of Appeal, filed by David Stebbins (Attachments: # <u>1</u> USCA Judgment, # <u>2</u> USCA Letter)(jn) (Entered: 07/20/2011)
07/22/2011	<u>67</u>		NOTICE OF APPEAL as to <u>65</u> Order on Motion for Reconsideration, Order on Motion for Miscellaneous Relief, Order on Motion to Strike by David Stebbins. (cc via CM/ECF: Jeffrey L. Spillyards, via U.S. Postal Service: David Stebbins) (Attachments: # <u>1</u> Motion and Affidavit for Permission to Appeal In Forma Pauperis, previous IFP granted 9/14/10)(lw) (Entered: 07/22/2011)
07/22/2011	<u>68</u>		APPEAL NOTICE to Counsel and Pro Se Parties re <u>67</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 07/22/2011)
07/22/2011	<u>69</u>		NOA SUPPLEMENT FORM re <u>67</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 07/22/2011)
07/25/2011	<u>70</u>		USCA Case Number 11-2583, 8th Circuit Court of Appeals

			for <u>67</u> Notice of Appeal, filed by David Stebbins. (jn) (Entered: 07/25/2011)
07/25/2011	<u>71</u>		NOTICE of Supreme Court Appeal by David Stebbins (tg) (Entered: 07/25/2011)
08/09/2011	<u>72</u>		PETITION FOR WRIT OF CERTIORARI was filed with the Supreme Court on 7/20/11 and placed on the docket on 7/28/11 as case number 11-5500. (Attachments: # <u>1</u> USCA Letter)(jn) (Entered: 08/09/2011)
08/09/2011	<u>73</u>		MOTION for Summary Judgment by David Stebbins. (lw) (Entered: 08/09/2011)
08/09/2011	<u>74</u>		MEMORANDUM BRIEF in Support of <u>73</u> MOTION for Summary Judgment by David Stebbins. (Attachments: # <u>1</u> Exhibit A Request for Admissions)(lw) (Entered: 08/09/2011)
08/09/2011	<u>75</u>		STATEMENT OF FACTS in support of <u>73</u> MOTION for Summary Judgment by David Stebbins. (lw) (Entered: 08/09/2011)
08/18/2011	<u>76</u>		PETITION FOR WRIT OF CERTIORARI was filed with the Supreme Court on 8/5/11 and placed on the docket on 8/12/11 as case number 11-5780. (Attachments: # <u>1</u> 8USCA Letter)(lw) (Entered: 08/18/2011)
08/23/2011	<u>77</u>		RESPONSE in Opposition re <u>73</u> MOTION for Summary Judgment <i>Wal-Mart's Response in Opposition to Plaintiff's Motion for Summary Judgment</i> filed by Wal-Mart Stores Arkansas LLC. (Attachments: # <u>1</u> Exhibit 1-Affidavit of Jeffrey L. Spillyards)(Spillyards, Jeffrey) (Entered: 08/23/2011)
08/23/2011	<u>78</u>		MEMORANDUM BRIEF in Support of <u>77</u> Response in Opposition to Motion, <i>Brief in Support of Wal-Mart's Response in Opposition to Plaintiff's Motion for Summary Judgment</i> by Wal-Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 08/23/2011)
08/23/2011	<u>79</u>		RESPONSE by Wal-Mart Stores Arkansas LLC re <u>75</u> Statement of Facts <i>Wal-Mart's Response to Plaintiff's Statement of Uncontroverted Facts</i> . (Spillyards, Jeffrey) (Entered: 08/23/2011)
09/06/2011	<u>80</u>		MANDATE of USCA dismissing <u>67</u> Notice of Appeal, filed by David Stebbins (Attachments: # <u>1</u> USCA Judgment, # <u>2</u> USCA Letter)(jn) (Entered: 09/06/2011)
09/07/2011	<u>81</u>	11	ORDER granting <u>55</u> Defendant's Motion for Summary Judgment and denying <u>73</u> Plaintiff's Motion for Summary Judgment. Further Plaintiff's sole remaining claim is DISMISSED WITH PREJUDICE. Signed by Honorable Robert T. Dawson on September 7, 2011. (lw) (Entered: 09/07/2011)

			09/07/2011)
09/07/2011	<u>82</u>	14	JUDGMENT Plaintiff's complaint is DISMISSED WITH PREJUDICE. All parties are to bear their own costs and fees, parties have 30 days from entry of this judgment on the docket in which to appeal. Signed by Honorable Robert T. Dawson on September 7, 2011. (lw) (Entered: 09/07/2011)
09/09/2011	<u>83</u>	15	NOTICE OF APPEAL as to <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment <u>65</u> Order on Motion for Reconsideration, Order on Motion for Miscellaneous Relief, Order on Motion to Strike, <u>81</u> Order on Motion for Summary Judgment by David Stebbins. (cc via CM/ECF: Jeffrey Spillyards; via U.S. Postal Service: David Stebbins) (jn) (Entered: 09/09/2011)
09/09/2011	<u>84</u>		APPEAL NOTICE to Counsel and Pro Se Parties re <u>83</u> Notice of Appeal, filed by David Stebbins. (jn) (Entered: 09/09/2011)
09/09/2011	<u>85</u>	18	NOA SUPPLEMENT FORM re <u>83</u> Notice of Appeal, filed by David Stebbins. (jn) (Entered: 09/09/2011)

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

DAVID STEBBINS

PLAINTIFF

v.

Civil No. 10-3086

WAL-MART STORES, INC.

DEFENDANT

ORDER

Currently before the Court are Defendant's Motion for Summary Judgment and supporting documents (docs. 55-57), Plaintiff's Response (doc. 62) and Defendant's Reply (doc. 63). Also before the Court are Plaintiff's Motion for Summary Judgment and supporting documents (docs. 73-75) and Defendant's Response and supporting documents (docs. 77-79).

Defendant seeks summary judgment on Plaintiff's sole remaining claim pursuant to the Rehabilitation Act, 29 U.S.C. § 794, as there are no genuine issues of material fact that Defendant is not a covered entity under the Act.

In order for a corporation to be covered under the Act, Federal financial assistance must be extended to the corporation as a whole or to a corporation that is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation. 29 U.S.C. § 794(b)(3). Defendant is a retail company in the business of

selling products for profits, not to provide social services. (Doc. 55-1). Furthermore, Defendant does not receive Federal financial assistance as a whole. *Id.*

Plaintiff's response contends the declaration of Carol Johnston, Senior Vice President for Wal-Mart, filed in support of Defendant's Motion is inadmissible and that a genuine fact issue exists as to whether Defendant receives Federal financial assistance. However, Plaintiff offers no proof to rebut Ms. Johnston's affidavit, and failed to meet his burden. See *Young v. Gastro-Intestinal Ctr.*, 361 Ark. 209, ___ S.W.3d ___ (2005). .

After reviewing the pleadings and the evidence on file in the light most favorable to the nonmoving party as required, the court finds that there are no issues of fact which would preclude summary judgment. Therefore, Defendant's Motion is GRANTED and Plaintiff's sole remaining claim is DISMISSED WITH PREJUDICE. Plaintiff's Motion for Summary Judgment is DENIED. Plaintiff contends Defendant failed to respond to certain requests for admissions that, if admitted, would defeat Defendant's Motion for Summary Judgment (doc. 73). Plaintiff never filed a motion to compel and offers no proof these were ever served upon Defendant, and the Court, therefore, cannot deem them admitted.

IT IS SO ORDERED this 7th day of September 2011.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

DAVID STEBBINS

PLAINTIFF

v.

Civil No. 10-3086

WAL-MART STORES, INC.

DEFENDANT

J U D G M E N T

For reasons set forth in the Order, filed contemporaneously herewith, Defendant's Motion for Summary Judgment (doc. 55) is GRANTED and Plaintiff's sole remaining claim is DISMISSED WITH PREJUDICE. Plaintiff's Motion for Summary Judgment (doc. 73) is DENIED. All parties are to bear their own costs and fees, and Plaintiff's complaint is DISMISSED WITH PREJUDICE. **The parties have thirty days from entry of this judgment on the docket in which to appeal.**

IT IS SO ORDERED this 7th day of September, 2011.

/s/ Robert T. Dawson

Honorable Robert T. Dawson
United States District Judge

SEP 09 2011

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

CHRIS R. JOHNSON, Clerk
By
Deputy Clerk

DAVID STEBBINS

PLAINTIFF

vs.

Case No. 10-3086

WAL-MART STORES, INC.

DEFENDANTS

NOTICE OF APPEAL

Comes now, *pro se* Plaintiff David Stebbins, who respectfully submits the following notice of appeal.

I intend to appeal the following orders:

1. The order denying my motion to confirm the arbitration award.
2. The order denying my second motion to confirm the arbitration award.
3. The order granting Defendant's motion for summary judgment and denying my motion for summary judgment.

I am also moving for leave to proceed *in forma pauperis*. Please grant this petition.



David Stebbins
1407 N Spring Rd,
APT #5
Harrison, AR 72601
870-204-6024
stebbinsd@yahoo.com

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

DAVID STEBBINS

PLAINTIFF

vs.

Case No. 10-3086

WAL-MART STORES, INC.

DEFENDANTS

CERTIFICATE OF SERVICE

I, *pro se* Plaintiff David Stebbins, hereby certify that a true and correct copy of my Notice of Appeal was served on Defendants by allowing them to view the Notice of Docket Activity on ECF, as allowed by the Local Rules.

A handwritten signature in black ink, appearing to read "David Stebbins", is written over a horizontal line.

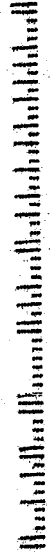
David Stebbins
1407 N Spring Rd,
APT #5
Harrison, AR 72601
870-204-6024
stebbinsd@yahoo.com

David Stebbins
1407 N Spring Rd,
APT #5
Harrison, AR 72601

U.S. District Court
35 E. Mountain St.
Room 520
Fayetteville, AR 72701



NORTHWEST AR. PNDF
AR 727 21
SEP 2011 PM



7270148334

U.S. COURT OF APPEALS - EIGHTH CIRCUIT

NOA SUPPLEMENT

Please note any additions or deletions to the style of the case from the style listed on the docket sheet or attach an amended docket sheet with the final style of the case.

10-3086 DAVID STEBBINS vs. WAL-MART STORES

Length of Trial: **NONE**

Financial Status: Fee Paid? Yes No **XX**

If NO, has IFP been granted? Yes **XX** No

Is there a pending motion for IFP? Yes No **XX**

Are there any other post-judgment motions? Yes No **XX**

Please identify the court reporter.

If no court reporter, please check **XXXXXX**

Name
Address

Telephone Number

CRIMINAL CASES ONLY:

Is the defendant incarcerated? Yes No

Place of confinement, if known:

Please list all other defendants in this case, if there were multiple defendants.

SPECIAL COMMENTS: